

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 04-1685 JB

MARCOS SANCHEZ,

Defendant.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Appeal of Detention Pending Trial, filed September 13, 2004 (Doc. 9). The Court held a hearing on this motion on September 17, 2004. The primary issue is whether the Defendant should be detained pending resolution of the criminal matter before the Court. Consistent with the Court's ruling at the hearing on this motion and the reasons for that ruling given at the time of the hearing, the Court will deny the Appeal of Detention Pending Trial, and will affirm Magistrate Judge Robert H. Scott's order.

PROCEDURAL BACKGROUND

Sanchez was originally arrested on the present federal charge as a state matter. At the time of his arrest in this same incident on state charges, he successfully posted a \$25,000.00 bond. The state court released Sanchez on that \$25,000.00 bond. Sanchez was in compliance with the state surety bond and its conditions.

Sanchez' fiancée was paying, and he was in contact, with the bonding agency. Sanchez contends that he was not a flight risk nor was he a danger to the community.

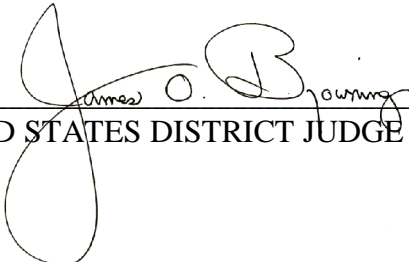
Upon his federal indictment, and the issuance of a warrant, Sanchez was arrested at his home.

Upon information and belief, he was cooperative and offered no resistance.

Pursuant to 18 U.S.C. § 3142(e), the United States moved the Court to conduct a detention hearing and thereafter order that Sanchez be detained before trial. See Motion for Detention Hearing, filed September 8 (Doc. 2). As grounds for his motion, the United States stated that Sanchez was a flight risk and a danger to the community. At the detention/arraignment, Sanchez's counsel requested that the Court release the defendant either to the custody of his fiancée or to the halfway house. Judge Scott granted the United States' motion, finding that no condition or combination of conditions will reasonably assure the safety of the community, that there is a serious risk that the Defendant will not appear, and that there is a serious risk that the Defendant will endanger the safety of another person or community. See Order of Detention Pending Trial, filed September 9, 2004 (Doc. 7).

Pursuant to 18 U.S.C. §§ 3142, 3145, Sanchez appeals the Order of Detention that Judge Scott entered at his arraignment. This case is assigned to Judge Browning, and the appeal is to him. Consistent with the Court's ruling at the hearing on this motion and the reasons for that ruling given at the time of the hearing, the Appeal from the Detention Order is denied.

IT IS ORDERED that the Appeal from the Detention Order is denied, and that, pursuant to Judge Scott's Order, the Defendant will remain in detention pending trial.


UNITED STATES DISTRICT JUDGE

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